

JUL 25 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In the Matter of: AURA SYSTEMS,
INC., a Delaware corporation,

Debtor,

No. 07-55573

D.C. No. CV-06-05642-R

MEMORANDUM^{*}

JOHN BAROVICH; et al.,

Appellants,

v.

AURA SYSTEMS, INC., a Delaware
corporation,

Appellee.

In the Matter of: AURA SYSTEMS,
INC., a Delaware corporation,

Debtor,

No. 07-55745

D.C. No. CV-06-06481-R

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

AURA SYSTEMS, INC., a Delaware
corporation,

Plaintiff - Appellee,

v.

JOHN BAROVICH; et al.,

Defendants - Appellants.

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Argued and Submitted June 6, 2008
Pasadena, California

Before: KOZINSKI, Chief Judge, BEA, Circuit Judge, and HUFF **, District
Judge.

The district court properly affirmed the bankruptcy court's determination
that Barovich's filing of a Notice of Judgment Lien in California was not a valid
means to create a judicial lien against the California personal property of Aura
Systems, Inc., a Delaware corporation. *See* Cal. Code Civ. Proc. §§ 697.510,
697.530; Cal. Com. Code §§ 9301(1), 9307(e); 6 Del. C. §§ 9-301, 9-501(a). The
bankruptcy court correctly stated:

** The Honorable Marilyn L. Huff, United States District Judge for the
Southern District of California, sitting by designation.

In California, the filing of a notice of judgment lien with the California Secretary of State is no longer a valid means to create a judicial lien against the California collateral of a non-California corporation. After the 2001 revisions to the California Commercial Code, the location of the debtor, not the property, controls where a security interest can be perfected. Thus, a corporate judgment debtor must be incorporated in California to permit the creation of a judicial lien through the filing of a notice of judgment lien with the California Secretary of State. Because Aura is incorporated under the laws of Delaware, the claimants did not obtain a judgment lien on its California collateral through the filing of a notice of judgment lien with the California Secretary of State. Therefore, claimants' judgment against Aura only supports an unsecured claim in this case.

In re Aura Systems, Inc., 347 B.R. 720, 725 (Bankr. C.D. Cal. 2006).

The district court properly affirmed the bankruptcy court's determination that Barovich's claim was not secured by real estate purportedly owned by Aura Realty, Inc. because the real estate had been sold to a good faith purchaser pursuant to a bankruptcy court order. Because the relief that Barovich seeks would unwind the sale, the mootness rule of 11 U.S.C. § 363(m) applies. *See Onouli-Kona Land Co. v. Estate of Richards (In re Onouli-Kona Land Co.)*, 846 F.2d 1170, 1172-73 (9th Cir. 1988).

The bankruptcy court did not abuse its discretion in denying Barovich's motions to compel further discovery because Barovich failed to demonstrate that

additional discovery would have resulted in production of evidence which would have raised a triable issue, and thereby have precluded the grant of summary judgment. *See Johnson v. Neilson (In re Slatkin)*, 525 F.3d 805, 810-11 (9th Cir. 2008).

AFFIRMED.